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USAA LIFE INSURANCE COMPANY

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UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 USAA LIFE INSURANCE COMPANY, a Texas Corporation.

Plaintiff,

|| v_2

15 REBECCA L. ROMONEK (formerly LEV);
16 MATTHEW LEV, a minor by and through his
guardian, REBECCA L. ROMONEK; KRISTINA
GOTH; THE LEV TRUST; ESTATE OF JAMES
B. LEV; and DOES 1 through 25, inclusive,

Defendants.

CASE NO. 3:15-cv-05582 WHA

**STIPULATION AND ORDER
DIRECTING DISTRIBUTION OF LIFE
INSURANCE PROCEEDS AND FOR
DISMISSAL OF CASE WITHOUT
PREJUDICE**

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1 **TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 This stipulation for an order regarding the distribution of life insurance funds and dismissal
3 in the above-referenced matter is made and entered into by and between plaintiff USAA LIFE
4 INSURANCE COMPANY (“USAA Life”), and defendants REBECCA L. ROMONEK
5 (“Romonek”), KRISTINA GOTH (“Goth”), THE LEV TRUST, and the ESTATE OF JAMES B.
6 LEV, referred to collectively as the “Parties.”

7 **RECITALS**

8 1. USAA Life issued a term life insurance policy to James B. Lev in the amount of
9 \$500,000 on October 9, 2002 (Policy No. D442277010). USAA Life issued a second term life
10 insurance policy to James B. Lev in the amount of \$1,000,000 on June 12, 2008 (Policy No.
11 D531256245).

12 2. James B. Lev changed the beneficiaries on both life insurance policies on or about
13 April 1, 2014. Romonek filed a petition for dissolution of marriage on April 1, 2014.

14 3. James B. Lev died on or about September 23, 2015.

15 4. USAA Life received competing claims to the life insurance proceeds in or about
16 October 2015.

17 5. USAA Life filed a Complaint in Interpleader on December 12, 2015, seeking
18 resolution of the competing claims to the life insurance proceeds following the death of James B.
19 Lev.

20 6. USAA Life filed a Motion for Discharge and for Order to Deposit Interpleader Funds
21 on February 19, 2016.

22 7. Defendant Romonek filed a Statement of Non-Opposition to USAA Life’s Motion
23 for Discharge on March 4, 2016.

24 8. Defendants Goth, the Lev Trust, and the Estate of James B. Lev filed a Conditional
25 Statement of Non-Opposition to USAA Life’s Motion for Discharge on March 4, 2016.

26 9. This Court granted USAA Life’s Motion for Discharge on March 9, 2016. The
27 Court also granted USAA Life’s request for attorney’s fees and costs in the amount of \$8,399.68.

28 10. This Court Ordered USAA Life to deposit the interpleader funds with the Court’s

registry by noon on March 18, 2016.

11. Defendants have agreed to distribute the \$1,000,000 policy to Kristina Goth, as trustee for the James B. Lev Trust, for Matthew Lev's benefit. USAA Life's costs and fees will be paid from the \$1,000,000 policy. Defendants have further agreed to distribute the \$500,000 policy to Rebecca Romonek. Under the anticipated terms of the settlement agreement, Romonek shall use \$200,000 of the life insurance proceeds to fund a trust for the benefit of Matthew Lev, Romonek will receive \$275,000 outright, Lakin Spears, LLP will receive \$25,000 as a contribution toward Romonek's legal fees.

9 12. The defendants are discussing and finalizing a settlement agreement in the Family
10 Court action, which includes an agreement on the distribution of the USAA Life insurance proceeds
11 at issue in this case.

12 13. USAA Life, having no interest in the life insurance proceeds, has agreed to distribute
13 the life insurance proceeds pursuant to the defendant's settlement in the Family Court action and
14 dismiss the instant interpleader action.

STIPULATION

1. The Parties hereby stipulate to an order directing USAA Life to pay life insurance proceeds as follows:

A. **\$1,000,000 USAA Life Policy No. D531256245:** USAA Life shall distribute the life insurance proceeds to Kristina Goth, as trustee of the James B. Lev Revocable Trust, dated April 1, 2014. USAA Life's costs and fees in the amount of \$8,399.68 shall be deducted from the distribution of this policy.

B. **\$500,000 USAA Life Policy No. D442277010:** USAA Life shall distribute the life insurance proceeds to Rebecca Romonek. Once received, Rebecca Romonek shall allocate the proceeds pursuant to the terms of the final settlement agreement in *Romonek v. Lev*, San Mateo County Superior Court, Case No. FAM0124896.

2. The Parties hereby stipulate to dismissal of the instant case without prejudice. Upon dismissal, USAA Life shall be released from liability as to each defendant with respect to the subject matter of the instant interpleader action.

1 Dated: March 17, 2016

HAYES SCOTT BONINO ELLINGSON & McLAY, LLP

3 By /s/ Gabrielle A. Hollingsworth
4 Robert S. McLay
5 Gabrielle A. Hollingsworth
6 Attorneys for Plaintiff
7 USAA Life Insurance Company

8 Dated: March 17, 2016

9 LAKIN SPEARS LLP

10 By: /s/ Edward R. Fluet
11 Edward R. Fluet
12 Attorney for Defendant
13 REBECCA L. ROMONEK

14 Dated: March 17, 2016

15 VIOLA LAW FIRM

16 By: /s/ Peter W. Daniel
17 Peter W. Daniel
18 Attorney for Defendants
19 KRISTINA GOTH, THE LEV TRUST, AND
20 ESTATE OF JAMES B. LEV

21 **SIGNATURE ATTESTATION**

22 I hereby attest that all of the signatories electronically listed above concur in this filing's
23 content and have authorized the filing in compliance with Local Rule 5-1(i)(3).

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28 /s/ Gabrielle A. Hollingsworth
29 GABRIELLE A. HOLLINGSWORTH

PROPOSED] ORDER

The Court, having reviewed the stipulation for an order directing the distribution of life insurance proceeds and for dismissal of the case without prejudice, and GOOD CAUSE APPEARING THEREFOR, hereby orders as follows:

1. USAA Life is hereby ordered to distribute the life insurance proceeds of USAA Life Policy No. D531256245 to Kristina Goth, as trustee of the James B. Lev Revocable Trust, dated April 1, 2014. USAA Life's costs and fees in the amount of \$8,399.68 shall be deducted from the distribution of this policy.
2. USAA Life is hereby ordered to distribute the life insurance proceeds of USAA Life Policy No. D442277010 to Rebecca Romonek.
3. Rebecca Romonek shall allocate the proceeds of the \$500,000 policy pursuant to the terms of the final settlement agreement in *in Romonek v. Lev*, San Mateo County Superior Court, Case No. FAM0124896.
4. This case is dismissed without prejudice. Upon dismissal, USAA Life shall be released from liability as to each defendant with respect to the subject matter of the instant interpleader action.

IT IS SO ORDERED.

Dated: March 22, 2016.


HONORABLE WILLIAM H. ALSUP
JUDGE OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA